IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

Bail Appl..No. 6390 of 2007()

[CRIME NO.73/07 OF NOORANAD EXCISE RANGE]

: PETITIONER/ACCUSED

PRAHLAMANY, W/O.LATE VIKRAMAN,
VEENALAYAM, MUTHUKATTUKARA MURI,
PALAMEL VILLAGE, NOORANAD P.O.

BY ADV. SRI.RASHEED C.NOORANAD

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.6390 of 2007

Dated this the 22nd day of October 2007

O R D E R

Application for Anticipatory bail. The petitioner, a woman faces allegations under the Kerala Abkari Act. The prosecution alleges that 1 litre of I.M.F.L in a bottle, after it was opened and partly consumed, was recovered from the possession of the petitioner. The petitioner was not arrested as no woman police official was allegedly present along with the detecting party. Investigation is in progress. The petitioner apprehends imminent arrest.

2. Called upon to explain the nature of allegations raised by the excise officials against the petitioner, it is submitted that the said bottle was found available in the premises of the petitioner. It is further alleged that the petitioner made a statement before the excise officials that she had sold the used portion to someone else and the balance was available in the bottle. The officials had admittedly not seen any sale going on. They had not seen any person after consumption of the liquor, returning from the house of the petitioner. In short, the whole case is built from the alleged statement of the petitioner that she had sold a portion of the rum from the bottle to some others at some earlier point of time.

3. According to the petitioner, the allegations are totally false and are invented to vex and harass the petitioner. The petitioner submits that she is a widow and is residing among others in her matrimonial home which is occupied by her brother-in-law.

4. The learned counsel for the petitioner tries to show before the court a bill for purchase of rum allegedly by her brother-in-law on the previous date. The learned counsel for the petitioner contends that false and vexatious allegations are being raised against the petitioner who was a candidate of the U.D.F in the previous elections.

5. It is unnecessary for me to go into the details. I have already adverted to crucial facts. The detecting officials have not detected any sale of liquor by the petitioner. They did not find anyone in the premises who had come to consume liquor. No sale proceeds are recovered. I am in these circumstances satisfied that the petitioner is entitled for anticipatory bail.

6. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 29/10/2007.

ii) She shall be released on regular bail on condition that she executes a bond for Rs.25,000/-(Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioner shall make herself available for interrogation before the investigating officer between 10 a.m and 12 noon on 30/10/2007 and thereafter as and when directed by the investigating officer in writing to do so.

(iv) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with her in accordance with law, as if these directions were not issued at all.

(v) If she were arrested prior to 29/10/2007, she shall be released from custody on her executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 29/10/2007.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007